

**FILED**

**FEB - 3 2006**

**MICHAEL W. DOBBINS**  
**CLERK, U.S. DISTRICT COURT**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

DAVID MOORE,

Plaintiff,

vs.

HARVARD COLLECTION SERVICES, INC.,

Defendant.

**JUDGE JOAN H. LEFKOW**

**06C 0667**

**MAGISTRATE JUDGE SCHENKIER**

**COMPLAINT**

**INTRODUCTION**

1. Plaintiff David Moore brings this action to secure redress from unlawful credit and collection practices engaged in by defendant Harvard Collection Services, Inc. Plaintiff alleges violation of the Fair Debt Collection Practices Act, 15 U.S.C. §1692 et seq. ("FDCPA"), and the Fair Credit Reporting Act, 15 U.S.C. §1681 et seq. ("FCRA").

**VENUE AND JURISDICTION**

2. This Court has jurisdiction under 15 U.S.C. §§1692k (FDCPA) and 1681p (FCRA) and 28 U.S.C. §§1331, 1337 and 1367.

3. Venue and personal jurisdiction in this District are proper because defendant's collection communications were received by plaintiff within this District and defendant is located in this District.

**PARTIES**

4. Plaintiff David Moore is an individual who resides in Calumet City, Illinois.

5. Defendant Harvard Collection Services, Inc. is a corporation with its principal place of business located at 4839 N. Elston, Chicago, IL 60630.

6. Harvard Collection Services, Inc. is engaged in the business of a collection agency, collecting debts originally owed to others.

7. Harvard Collection Services, Inc. is a debt collector as defined in the FDCPA.

**FACTS**

8. On or about Dec. 21, 2004, Harvard Collection Services, Inc. sent plaintiff David Moore the collection letter attached as Exhibit A.

9. The letter sought to collect an alleged defaulted debt incurred for personal, family or household purposes.

10. Exhibit A was the initial letter plaintiff received from defendant regarding the debt described therein.

11. On information and belief, Exhibit A was the initial letter defendant sent plaintiff regarding the debt described therein.

12. Within 30 days thereafter, on January 7, 2005, plaintiff disputed the alleged debt. A copy of his correspondence is attached as Exhibit B.

13. On information and belief, defendant reports debts to the major national credit bureaus, Equifax, Trans Union and Experian, at least once per month.

14. On information and belief, defendant continued reporting the alleged debt described in Exhibit A to the credit bureaus throughout 2005, without reporting any dispute.

15. In the spring of 2005, plaintiff disputed the Harvard "tradeline" with Experian and Equifax.

16. On information and belief, based on Experian's and Equifax's statements to plaintiff, Experian contacted Harvard and requested investigation of the tradeline.

17. On information and belief, based on Experian's and Equifax's statements to plaintiff, Harvard responded that the tradeline was correctly reported. Copies of the Experian and Equifax statements to plaintiff are attached as Exhibits C and D.

18. Harvard did not report the debt as disputed in response to the credit bureau inquiry, although Harvard knew plaintiff had disputed the debt.

19. The FDCPA, 15 U.S.C. §1692c, provides:

**False or misleading representations [Section 807 of P.L.]**

A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section: . . .

(8) Communicating or threatening to communicate to any person credit information which is known or which should be known to be false, including the failure to communicate that a disputed debt is disputed. . .

20. The FCRA, 15 U.S.C. §1681s-2, provides:

(a) Duty of furnishers of information to provide accurate information. . . .

(3) Duty to provide notice of dispute. If the completeness or accuracy of any information furnished by any person to any consumer reporting agency is disputed to such person by a consumer, the person may not furnish the information to any consumer reporting agency without notice that such information is disputed by the consumer. . . .

#### COUNT I – FDCPA

21. Plaintiff incorporates paragraphs 1-20.

22. Defendant violated the FDCPA, 15 U.S.C. §§1692e and 1692e(8), by reporting a disputed debt as undisputed.

WHEREFORE, the Court should enter judgment in favor of plaintiff and against defendant for:

- (1) Statutory and actual damages;
- (2) Attorney's fees, litigation expenses and costs of suit;
- (3) Such other and further relief as the Court deems proper.

#### COUNT II – FCRA

23. Plaintiff incorporates ¶¶1-20.

24. Harvard violated the Fair Credit Reporting Act, 15 U.S.C. §1681s-2(b), by (a) failing to conduct a reasonable investigation in response to the credit bureau inquiries, and/or (b) following such investigation, failing to accurately report the status of the debt in responding to the credit bureau inquiry.

25. Section 1681s-2(b) provides:

**(b) Duties of furnishers of information upon notice of dispute.**

**(1) In general.** After receiving notice pursuant to section 611(a)(2) [15 USC §1681i(a)(2)] of a dispute with regard to the completeness or accuracy of any information provided by a person to a consumer reporting agency, the person shall

**(A) conduct an investigation with respect to the disputed information;**

**(B) review all relevant information provided by the consumer reporting agency pursuant to section 611(a)(2) [15 USC §1681i(a)(2)];**

**(C) report the results of the investigation to the consumer reporting agency; and**

**(D) if the investigation finds that the information is incomplete or inaccurate, report those results to all other consumer reporting agencies to which the person furnished the information and that compile and maintain files on consumers on a nationwide basis.**

**(2) Deadline.** A person shall complete all investigations, reviews, and reports required under paragraph (1) regarding information provided by the person to a consumer reporting agency, before the expiration of the period under section 611(a)(1) [15 USC §1681i(a)(1)] within which the consumer reporting agency is required to complete actions required by that section regarding that information.

26. Harvard committed such violations willfully and/or negligently, thereby violating 15 U.S.C. §1681n and/or §1681o.

27. Section 1681n provides:

**§1681n. Civil liability for willful noncompliance**

**(a) In general.** Any person who willfully fails to comply with any requirement imposed under this title with respect to any consumer is liable to that consumer in an amount equal to the sum of—

**(1)**

**(A) any actual damages sustained by the consumer as a result of the failure or damages of not less than \$ 100 and not more than \$ 1,000; or**

**(2) such amount of punitive damages as the court may allow; and**

**(3) in the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees**

as determined by the court. . . .

28. Section 1681o provides:

**§1681o. Civil liability for negligent noncompliance**

**(a) In general. Any person who is negligent in failing to comply with any requirement imposed under this title with respect to any consumer is liable to that consumer in an amount equal to the sum of--**

**(1) any actual damages sustained by the consumer as a result of the failure;**

**(2) in the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.**

WHEREFORE, plaintiff requests that the Court enter judgment in his favor and against Harvard for:

- (1) Appropriate actual, punitive and statutory damages;
- (2) Attorney's fees, litigation expenses and costs of suit;
- (3) Such other or further relief as the Court deems proper.



\_\_\_\_\_  
Daniel A. Edelman

Daniel A. Edelman  
Cathleen M. Combs  
James O. Lattuner  
EDELMAN, COMBS, LATTURNER  
& GOODWIN, L.L.C.  
120 S. LaSalle Street, 18th Floor  
Chicago, Illinois 60603  
(312) 739-4200  
(312) 419-0379 (FAX)

**JURY DEMAND**

Plaintiff demands trial by jury.



\_\_\_\_\_  
Daniel A. Edelman

# **EXHIBIT A**

**PRIORITY MESSAGE**

4839 N. Elston Avenue  
Chicago, IL 60630-2534

December 21, 2004  
PERSONAL & CONFIDENTIAL  
8978747

0000032 00010001 8978747

David Moore  
850 Buffalo Ave  
Calumet City, IL 60409-4404

**Harvard Collection Services, Inc.**

4839 N. Elston Avenue  
Chicago, IL 60630-2534  
Recovery Unit 1-800-295-5875

**ACCOUNT IDENTIFICATION**

Creditor : Comed  
Identification No. : 8978747  
Creditor No. : 8990264043  
Amount Owed : \$514.47

**CUSTOMER NOTICE**

Your delinquent account has been placed with this office for collection. Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor.

Recovery Unit 1-800-295-5875  
Harvard Collection Services, Inc.

This communication is from a debt collector.

This is an attempt to collect a debt and any information obtained will be used for that purpose.

HV2036/R 2.0

Detach and Return with Payment  
Enter the requested information in the spaces provided below:

To pay by credit card, please complete the information below:

Check one: ☐ Visa ☐ MasterCard

Card Number:

Expiration Date:

Payment Amount: \_\_\_\_\_

Signature: \_\_\_\_\_

Enclosing this notice with your payment  
will expedite credit to your account.

Make checks payable and send to  
Harvard Collection Services, Inc.

Creditor : Comed  
Name : David Moore  
Identification No. : 8978747  
Creditor No. : 8990264043  
Amount Owed : \$514.47  
Amount Enclosed : \_\_\_\_\_

HARVARD COLLECTION SERVICES INC  
4839 N ELSTON AVENUE  
CHICAGO, IL 60630-2534

0000032 00010001 8978747

# **EXHIBIT B**



②  
Dave Moore  
850 Buffalo  
Calumet City, IL 60409

January 7, 2005

Harvard Collections  
4839 N Elston  
Chicago, IL 60630

To Whom It May Concern:

I have received your notification of an alleged debt with Comed, #8978747, in the amount of \$514.47.

I do not believe I owe this money. Therefore I dispute this debt, and demand that you produce proof that I owe this debt, and that I have any contractual obligation to pay you. Otherwise, please remove me from your records.

Also be advised that if you knowingly report this erroneous and disputed information to a credit bureau, you will be in violation of the law. If this occurs, legal action will be taken.

Govern yourselves accordingly.

Dave Moore

# **EXHIBIT C**

**Credit items continued**

Source/ Account number (except last few digits)	Date opened/ Reported since	Date of status/ Last reported	Type/ Terms/ Monthly payment	Responsibility	Credit limit or original amount/ High balance	Recent balance/ Recent payment	Status Details
-14-HARVARD COLLECTION 4839 N ELSTON AVE CHICAGO IL 60630 8978747	12-2004/ 2 2005	3-2005/ 3-2005	Installment/ 1 Months/ \$0	Individual	\$514 / NA	\$514 as of 3-2005/	Status: Collection account, \$514 past due as of 3-2005. Account history: Collection as of 3-2005, 2-2005 This item was verified on 4-2005 and remained unchanged.

Redacted

CHARTER FUNDING

DEC 17 2005 12:49

0012161842



# **EXHIBIT D**

